

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CHARLES J. SMITH,

Plaintiff,

-v-

9:18-CV-1107  
(DNH/DJS)

JAYNES, Corrections Officer,

Defendant.

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APPEARANCES:

OF COUNSEL:

CHARLES J. SMITH  
Plaintiff pro se  
96-A-6765  
Greene Correctional Facility  
P.O. Box 975  
Coxsackie, NY 12051

HON. LETITIA JAMES  
Attorney General for the State of New York  
Attorney for Defendant  
The Capitol  
Albany, NY 12224

ERIK BOULE PINSONNAULT, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Charles J. Smith brought this civil rights action pursuant to 42 U.S.C. § 1983. On February 4, 2020, the Honorable Daniel J. Stewart, United States Magistrate Judge, advised by Report-Recommendation that defendant's motion for summary judgment in lieu of answer be denied without prejudice. Plaintiff timely filed objections to the Report-

Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

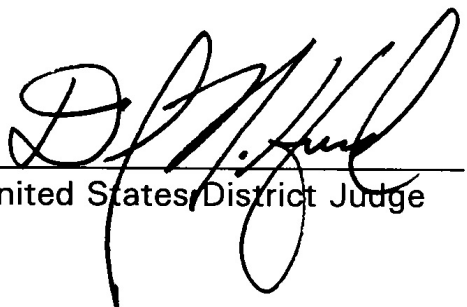
Therefore, it is

ORDERED that

1. Defendant's motion for summary judgment in lieu of answer is DENIED WITHOUT PREJUDICE; and

2. Defendant is directed to answer the sole First Amendment retaliation claim in plaintiff's Complaint within twenty (20) days of the date of this Decision and Order.

IT IS SO ORDERED.



United States District Judge

Dated: March 9, 2020  
Utica, New York.